(4) (3)

Nos. 86-1719, 86-1860

Supreme Court, U.S.
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JUN 30 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

IN RE: UNION CARBIDE CORPORATION GAS PLANT DISASTER AT BHOPAL, INDIA, IN DECEMBER, 1984

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

The undersigned counsel who represented the *amici* group of twenty religious and public interest organizations in opposition to Union Carbide's *forum non conveniens* motion in the District Court, and who also appeared as *amicus* in this matter in the United States Court of Appeals for the Second Circuit, requests permission to file a Brief *Amicus Curiae* of the National Council of Churches (NCC) in the above-captioned case.

Consent to file this brief has been granted by Jack Hoffinger, Esq., Executive Committee Liaison Counsel and by Mr. Phillip B. Allen of the firm of Waite, Schneider, Bayless & Chesley, on behalf of counsel of record for the Individual Plaintiffs attorneys, and by Mr. Bruce A. Finzen of the firm of Robins, Zelle, Larson & Kaplan, Esq. on behalf of counsel of record for the Union of India.

Consent to file this brief was also requested of Bud G. Holman, Esq., counsel of record for Union Carbide Corp. Having had no response as of the time of filing this Motion Mr. Holman was contacted by telephone to determine whether Union Carbide intended by its silence to oppose the appearance of *amicus* before this court by means of its Brief.

Mr. Bud Holman refused to grant consent for the

filing of the National Council of Churches' Brief although both the District Court and the Appeals Court had given NCC and NCC's counsel permission to appear. Indeed, due to the importance of the "public interest" and moral issues involved assessing the question of *forum non conveniens amicus* had a special role to play in this case, which was reflected in the District Court's grant of, time to *amicus* for oral argument on the issue as one of four separate parties who argued in the District Court.

Notwithstanding the unusual significance of *amicus* to the public interest issue in this case, and the unusual level of participation by *amicus*, Mr. Holman has withheld his consent with no other reason than his disagreement with *amicus* on the merits of the brief and, apparently, an incompletely articulated objection concerning the propriety of the National Council of Churches expressing its interest in this case.

Although NCC's counsel explained to Mr. Holman that consent to filing did not involve endorsement of the content of the Brief, Mr. Holman stated that he would take no action that would facilitate *amicus*' involvement in this phase of the case. Counsel for NCC concludes that Mr. Holman's reason for withholding consent is merely obstruction, and thereby imposing the added burden of this Motion on counsel and the Court.

The attached Brief presents arguments which are not discussed in the submissions of the other parties but which should be taken into account in reviewing

the District Court's decision for purposes of ruling on the Petitions for Writ of Certiorari. Leave to appear in this case is appropriate "since the issues raised in this proceeding involve important questions of public interest," *Colgate-Palmolive Co. v. Erie County*, 327 N.Y.S.2d 488, 489 (1971).

For the reasons stated the National Council of Churches respectfully requests permission to appear as *amicus curiae* in this case.

Respectfully submitted,

ROBERT HAGER
Counsel for Amicus Curiae